

REMARKS

Claims 11, 13, 15, 16, 23, 27, 29, 30, 32 and 34-36 are presently in the application. Claim 30 has been withdrawn from consideration. New claims 37-39 are presented herein for consideration. The above amendments are being made to place the application in better condition for examination.

Reconsideration of the rejection of claims 11, 13, 15, 16, 23, 32 and 34-36 under 35 USC 103(a) as being unpatentable over US Patent No. 4,596,941 to Kluck in view of US Patent No. 3,094,594 to Watson is respectfully requested.

Claim 11 is directed to an electrical machine, comprising:

a housing for the machine, the housing including a housing body (2) and a housing cap (3),

a brush holder (5) disposed in the housing for holding brushes (6), and

an elastic region (4; 11) in the housing cap (3) which enables positioning of the brush holder (5) relative to a commutator (7) from outside the housing, wherein the elastic region (4) is embodied as an independently formed elastomer element disposed in and secured in the housing cap (3), and wherein a seal is achieved between the elastomer element and the housing cap (3).

Applicant firmly disagrees with the rejection and believes that present independent claim 11 is distinguished from either Kluck or Watson, or a combination of the two.

Kluck discloses a housing including a housing body, a diaphragm-like housing cap 10, brush holders 13, 14, and an elastic region 24 of the housing cap 10. Kluck lacks having the

elastic region being an independently formed elastomer element. The housing cap 10 of Kluck is integrally formed as a single flexible element which includes an elastic region. The examiner notes that Kluck teaches that the housing cap 10 is a flexible plastic.

Watson is relied upon for showing an independently formed elastic region for use in an electrical device. The examiner apparently considers the end cap 23 in Fig. 1 of Watson to satisfy the requirement in claim 11 of "an independently formed elastomer element disposed in and secured in the housing cap.@ We strongly disagree with the examiner's interpretation of the references.

Clearly, the housing cap 10 of Kluck is integrally formed as a single flexible element, and the housing cap of Watson is integrally formed as a single flexible element. The claims clearly define that the *elastic region (4) is disposed inside the housing cap and is not identical with the housing cap*. The invention to which the current claims are drawn (Figs. 1 and 2) embodies the *elastic region as a separate element*, of an elastomer element disposed in and secured in the housing cap

Kluck provides no instructions whatsoever on providing for *an independently formed elastomer element*. In Watson, which has a snap acting mechanism for a bistable electric switch as its content, a flexible housing part is disclosed, but in Watson *it is embodied completely as a housing cap* (3). However, the content of Watson with the electric switch is far away from the teachings according to Kluck of calibrating a commutator of an electric motor through the housing wall. Therefore a combination of the two references, Kluck and

Watson, is imagined only with knowledge of the present invention, which means by impermissible hindsight.

Moreover, *there is no teaching in Watson of disposing and securing an elastic region in a housing cap*. On the contrary, in Watson the entire housing cap is made from a flexible material, so that provides only a seal between the housing 21 and the housing cap 23, but not any further sealing between the elastic region and the housing can, as is the case according to the present invention. In the present invention, the housing cap 3 is made from a more-stable material and *is joined to* a housing 2 by a separate seal 9, since an electrical machine according to the invention must meet substantially more stringent demands in terms of stability and tightness than an electric switch as in Watson. An embodiment of the kind in Watson, in which the entire cap is embodied as an elastic element that has only a seal extending all the way around the entire housing, cannot be imagined under any circumstances for an electric motor in the exterior region of the motor vehicle.

Therefore one skilled in the art finds *no teaching whatsoever in Watson about how to embody the present invention, that is, to dispose an elastic element inside a housing cap by means of a seal*. Furthermore, the structure of Watson points away from the subject of the invention as defined by pending claim 11. A combination of the Kluck and Watson references is therefore impermissible and in no way renders the present invention obvious. Withdrawal of the rejection is respectfully requested.

Reconsideration of the rejection of claims 27-29 under 35 USC 103(a) as being unpatentable over US Pub. No. 2002/0175573 to Hayashi in view of Kluck in view of Watson is respectfully requested.

Claims 27 and 29 are directed to the electrical machine of claim 11, being used in a vehicle for electrically actuated accessories, and a drive for windshield wipers, respectively.

Hayashi is relied upon for showing a windshield wiper motor for use in a vehicle. The examiner combines Kluck in view of Watson as applied above with Hayashi to attempt to satisfy the requirements of the claims.

In accordance with the above argument that for this present application in the motor vehicle, especially for windshield wipers, completely different structural requirements are necessary, compared to the embodiment of the electric switch in Watson. Therefore dependent claims 27 and 29 should be allowable in conjunction with pending claim 11.

Additionally, as it has been shown above that the combination of Kluck in view of Watson does not render the base claim 11 obvious, and the content of Hayashi does not compensate for the shortcomings of the combination, the rejection should be rendered moot.

Withdrawal of the rejection is respectfully requested.

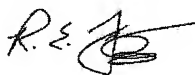
The characteristics of new dependent claims 37-39 are disclosed on page 5, [0024], of the specification. In contrast to Kluck, where only the brush lever is moved from outside, in the present invention the entire brush holder 5 (on which the brush levers are secured) is displaced relative to the housing.

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As it is shown by the arguments presented herein, claim 11 is distinguished over the references taken alone or in combination. Therefore allowance of all the claims is respectfully requested.

Entry of the amendment is respectfully solicited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'R.E. Greigg', with a stylized flourish at the end.

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